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April 11, 2024

**By ECF**

The Honorable Ronnie Abrams  
United States District Court  
Southern District of New York  
40 Foley Square, Room 2203  
New York, NY 10007

Re: Consolidated Bus Transit, Inc. et al. v. Local 854 Pension Fund et al., No. 22-cv-3493-RA

Dear Judge Abrams:

We represent Defendants Local 854 Pension Fund (the “Fund”) and the Board of Trustees of the Local 854 Pension Fund (the “Trustees”) (collectively, “Defendants”) in the above-referenced action. Pursuant to Section 1.D of Your Honor’s Individual Rules and Practices in Civil Cases, we write jointly with Plaintiffs’ counsel to respectfully request a modest adjournment of the current deadlines for the initial status conference and for the parties to file a joint letter and case management plan.

The two upcoming dates in this action are the initial status conference, currently scheduled for April 19, 2024, and the corresponding deadline of April 12, 2024 for the parties’ joint letter and case management plan. (Dkt. 40.) The parties have made six previous requests to adjourn these dates—originally scheduled for July 1, 2022 and June 24, 2022, respectively—each of which the Court granted. (Dkts. 28, 31, 33–34, 36, 38.)

As explained in connection with the parties’ most recent request (Dkt. 37) and status update (Dkt. 39), the primary outstanding issue in this case is the appropriate methodology for calculating the amount by which to reduce the withdrawal liability assessed against Plaintiffs in connection with the Fund’s transfer of pension assets and liabilities to the Amalgamated Transit Workers Local 854 Pension Fund. This issue has been the subject of motion practice in a case before the Honorable Cathy Seibel, *Mar-Can Transportation Co., Inc. v. Local 854 Pension Fund*, No. 7:20-cv-8743 (S.D.N.Y.), in which the Fund is a defendant (against a different plaintiff). On March 22, 2024, Judge Seibel granted summary judgment for the plaintiff in *Mar-Can* on this issue, *see* 2024 WL 1250716 at \*18–35.

The Trustees are actively evaluating whether or not to appeal the *Mar-Can* decision. It is anticipated that they will not reach a decision on how to proceed until on or around the date of



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the scheduled status conference in this matter – after the deadline for pre-conference submissions.

In light of the foregoing timing considerations, and the impact on this matter of a potential appeal and ruling from the Second Circuit in *Mar-Can*, the parties respectfully submit that a modest adjournment of the initial status conference would promote judicial efficiency and avoid a potential waste of judicial resources. Accordingly, the parties respectfully request, subject to the Court's availability, that the Court adjourn the initial status conference to one of April 30, May 7 or May 8, 2024, and order that the joint letter and case management plan are due one week in advance of the conference.

We thank the Court for its consideration.

Respectfully,

*/s/ Joseph E. Clark*

Joseph E. Clark

cc All counsel of record

Application granted. The conference currently scheduled for April 19, 2024 is hereby adjourned to May 10, 2024 at 3:00 p.m. The parties' joint status letter and proposed case management plan is due one week prior to the conference. SO ORDERED.

A handwritten signature in blue ink, appearing to be "R. Abrams", written over a horizontal line.

Hon. Ronnie Abrams  
U.S. District Judge  
April 12, 2024